



Request for Proposal 740-06 Reconfiguration of 800MHz Public Safety System

| | |
|--|-----------|
| Table of Contents..... | 1 |
| I. RFP Schedule and Instructions to Offerors..... | 4 |
| II. General Description..... | 6 |
| A. Overview..... | 6 |
| B. General Information and Instructions..... | 6 |
| 1. Funding..... | 6 |
| 2. Payments..... | 7 |
| 3. Offer's Duty to Understand the Town's Requirements..... | 7 |
| 4. Questions..... | 7 |
| 5. Complaints..... | 7 |
| 6. Modification of Proposals..... | 7 |
| 7. Withdrawal of Proposals..... | 7 |
| 8. Cost of Proposal Preparation..... | 8 |
| 9. Rejection of Proposals..... | 8 |
| 10. Proposal Format..... | 8 |
| 11. General Proposal Instructions..... | 8 |
| 12. Executive Summary..... | 9 |
| 13. Technical Proposal Requirements..... | 9 |
| 14. Cost Proposal Requirements..... | 10 |
| 15. Number of Copies of Proposal..... | 10 |
| 16. Basis of Award..... | 10 |
| 17. Technical Evaluation..... | 10 |
| 18. Cost Evaluation..... | 11 |
| 19. Communications with Offerors..... | 11 |
| 20. Award..... | 12 |
| 21. Form of Contract..... | 12 |
| 22. Use of Subcontractors..... | 12 |
| 23. Restriction on Use of Proposal Information..... | 12 |
| 24. Security..... | 12 |
| 25. Certificate of Independent Pricing..... | 12 |
| 26. Conflicts of Interest..... | 13 |
| 27. Gratuities..... | 13 |
| 28. No Cost or Charges..... | 13 |
| 29. Non-Endorsement and Publicity..... | 13 |
| 30. Protest Procedures..... | 13 |
| Exhibit A, Sprint Nextel Vendor Information Package..... | 14 |
| Exhibit B, Statement of Work | |
| A. Objectives and Scope..... | 15 |
| B. Defined Terms..... | 15 |
| C. Tasks to be Performed..... | 16 |
| Schedule A to Statement of Work – Existing Frequencies..... | 20 |

| | |
|--|-----------|
| Schedule B to Statement of Work – Proposed Frequencies..... | 21 |
| Appendix 1 to Statement of Work, Acceptance Test Plan..... | 23 |
| Exhibit C, Form of Rebanding Agreement..... | 24 |
| Recitals..... | 24 |
| 1. Scope of Work..... | 24 |
| 2. Performance Schedule..... | 24 |
| 3. Contract Price..... | 24 |
| 4. Taxes..... | 25 |
| 5. Invoicing and Payment..... | 25 |
| 5.1 Payment Terms and Conditions | |
| 5.2 Invoicing | |
| 5.3 Invoices | |
| 5.4 Payment | |
| 5.5 Sprint Nextel Letter of Credit | |
| 6. Change Orders..... | 26 |
| 7. Administration..... | 26 |
| 7.1 Vendor Project Manager | |
| 7.2 Vendor Contracting Officer | |
| 7.3 Town Project Manager | |
| 7.4 Town Contract Administrator | |
| 7.5 Town Contracting Officer | |
| 8. Subcontractors..... | 27 |
| 9. Performance Bonds..... | 27 |
| 10. Force Majeure..... | 27 |
| 11. Liquidated Damages..... | 27 |
| 11.1 General | |
| 11.2 Specific | |
| 12. Access to Work Sites..... | 27 |
| 13. Gratuities..... | 27 |
| 14. Insurance..... | 27 |
| 15. Liens..... | 27 |
| 16. Risk of Loss..... | 28 |
| 17. Acceptance..... | 28 |
| 18. Warranties..... | 28 |
| 18.1 Reconfiguration Services | |
| 18.2 Replacement Equipment and Software | |
| 18.3 Disclaimer of Other Warranties | |
| 19. Default..... | 28 |
| 20. Termination for Convenience..... | 28 |
| 21. Termination for Conflict of Interest..... | 28 |
| 22. Indemnification..... | 28 |
| 23. Infringement..... | 29 |
| 24. Limitation of Liability..... | 20 |
| 25. Disputes..... | 29 |
| 26. Security..... | 29 |
| 27. Publicity..... | 29 |
| 28. Right of Inspection..... | 29 |
| 29. Licensing Standards..... | 29 |
| 30. Covenant against Contingent Fees..... | 29 |
| 31. Prohibited Agreements..... | 30 |
| 32. Recordkeeping..... | 30 |
| 33. Additional Terms and Conditions..... | 30 |
| 34. General..... | 30 |
| 34.1 Assignment | |
| 34.2 Authority for Modifications and Amendments | |
| 34.3 Waiver | |
| 34.4 Severability | |
| 34.5 Non-Exclusive Remedies | |

| | |
|-------|---------------------------------|
| 34.6 | Independent Contractors |
| 34.7 | Headings and Section References |
| 34.8 | Governing Law |
| 34.9 | Entire Agreement |
| 34.10 | Entire Agreement |

| | |
|---|-----------|
| 1.1 Exhibit A to Rebanding Agreement - Statement of Work..... | 32 |
| Exhibit B to Rebanding Agreement -Payment Terms, Fixed Hourly Rates and Ceiling Price..... | 33 |
| Exhibit C to Rebanding Agreement - Required Insurance..... | 34 |
| Exhibit D, Additional Terms and Conditions..... | 35 |
| Exhibit E, Protest Procedures..... | 39 |



TOWN OF BLACKSBURG, VIRGINIA
Request for Proposal for Non Professional Services

| | |
|---|--|
| RFP Number: 740-06 | Title: Reconfiguration of 800 MHz Public Safety System-Blacksburg Police Department |
| Issue Date: May 31, 2006 | Pages: 4 of 39 |
| Proposal Receipt Date and Time: JUNE 20, 2006 3:00 PM lpt | Last Date for Written Questions: June 12, 2006 |
| Submit To: Town of Blacksburg Purchasing Office 141 Jackson Street Blacksburg, VA 24060 | Date addenda (if any) to be posted on Town Web Site June 13, 2006 |
| Proposals received after the above time and/or date will be returned to the offeror unopened. | |

I. INSTRUCTIONS TO OFFERORS

1. **Proposal Opening:** As this is a Request for Proposal, all responses shall be opened in private with no information being released until after the negotiation PROCESS. A Selection Committee will be established to review and evaluate all responses.
2. **Memorandum of Understanding:** During the contract negotiation, a more defined scope of work or refined specifications may be developed. These shall be known as a memorandum of understanding (MOU) and shall contain any agreed upon negotiation points. This memorandum shall then become part of the contract documents.
3. **Release of Information:** No information regarding the identity of the offerors nor the contents of the proposals shall be released until after the negotiation process. If your proposal contains information of a proprietary nature, the information must be noted and an explanation submitted on separate cover.
4. All claims which may arise under this contract shall be resolved through the procedure set forth in Blacksburg Town Code section 16-506 Contractual Disputes.
5. **Timeliness:** Completion/Delivery Time is of the essence. Offeror must comply with time frames as specified in the Request for Proposal unless different time frames are negotiated prior to Award. Failure to meet Delivery Schedules and Completion Time frames may be grounds for disqualification.
6. **Tax Exempt Status:** The Town of Blacksburg is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificate shall be furnished upon request. The Town's Federal Tax ID Number is 54-6001146.
7. **Material:** All material being offered shall be new, current model year, in first class condition and include containers suitable for shipment and storage, unless otherwise indicated in solicitation.
8. **Contractual Documents:** The contract entered into by the parties shall consist of the request for Proposal, the Instructions to Offerors, the General Description, Statement of Work, Additional Terms and Conditions, the proposal submitted by the Offeror, the memorandum of understanding, the Town of Blacksburg's Contract and/or Purchase order, any change orders issued, addenda, all of which may be referred to as the contract documents. In the event of conflict, the Town's Request for Proposal, Instructions to Offerors, General Terms and Conditions, Special terms and conditions, Scope of Work and this Agreement shall control.
9. **Pricing Errors:** In case of an error in price extension, the firm fixed unit price shall govern.
10. **Quantities:** The Town does not guarantee any minimum or maximum quantities. Quantities as specified are approximate and are prepared for the solicitation. The exact quantities shall be stated at time of order placement.

Bonnie B. Preas, CPPO, C.P.M.
Purchasing Agent
bpreas@blacksburg.gov

THE UNDERSIGNED ACKNOWLEDGES THAT BY THE SIGNATURE OF THE FORM, OFFEROR AGREES TO COMPLY WITH ALL INSTRUCTIONS TO OFFERORS, TERMS AND CONDITIONS OF THE REQUEST FOR PROPOSAL AND IS DULY AUTHORIZED TO SIGN FOR OFFEROR COMPANY. ANY DEVIATIONS TO THE SCOPE OF WORK, INSTRUCTIOS TO OFFERORS, TERMS AND CONDITIONS MUST BE STATED, IN WRITING, WITH YOUR PROPOSAL SUBMITTAL

COMPANY_____

AUTHORIZED SIGNATURE_____

TITLE_____DATE_____

E-MAIL ADDRESS_____

Request for Proposals
Reconfiguration of 800 MHz Public Safety System
Town of Blacksburg, Virginia
General Description

A. Overview

The Federal Communications Commission (“FCC”) has ordered the reconfiguration of the 800 MHz band to minimize increasing levels of interference to critical public safety communications systems from commercial wireless carriers. 800 MHz Transition Administrator, LLC (“TA”) has been authorized by the FCC to facilitate an orderly transition to the new 800 MHz band plan. The TA will oversee the administration and financial aspects of the band reconfiguration process, as well as ensure that reconfiguration is achieved with minimal disruption to licensees, particularly public safety entities. The TA has developed a reconfiguration handbook that can be accessed at http://www.800TA.org/content/PDF/reconfiguration_materials/handbook.pdf. (“TA Reconfiguration Handbook”).

As a result of the FCC’s order, The Town of Blacksburg (Town) must reconfigure its Police Department Radio System (“System”) to operate on certain replacement frequencies. Pursuant to the FCC’s order Sprint Nextel Corporation (“Sprint Nextel”) must provide the minimum funds necessary to provide the Town reconfigured facilities that are comparable to those presently in use.

The Town and Sprint Nextel are currently negotiating a Frequency Reconfiguration Agreement, pursuant to which the Town will agree to relinquish certain of its 800MHz frequencies and relocate its System to the replacement frequencies and Sprint Nextel will agree to pay the cost of such relocation.

In order to estimate the cost of reconfiguring the Town’s System and to select a vendor that will perform the required reconfiguration services, the Town is issuing this request for proposals (“RFP”) to solicit proposals from qualified vendors to perform such work on a time and material basis with a not-to-exceed amount.

B. General Information and Instructions

1. Funding

The Town has no funds available for this rebanding effort. Any contract awarded as a result of this procurement is contingent upon funding approval by Sprint Nextel and the TA. If Sprint Nextel does not provide the funds required to reconfigure the System as contemplated by this RFP, the Town may terminate this RFP or any contract that is awarded pursuant to this RFP. No penalty shall accrue to the Town in the event the Town exercises this termination right.

2. Payments

If Sprint Nextel and the TA approve funding to reconfigure the System and the Town awards a contract to the successful offeror pursuant to this RFP, such successful offeror will receive payments under such contract directly from Sprint Nextel. To receive payment directly from Sprint Nextel, the successful offeror must agree to certain terms and conditions imposed by the FCC, the TA and Sprint Nextel. The Town must acknowledge each invoice submitted to Sprint Nextel for payment pursuant to the contract and confirm that the goods and services covered by such invoice have been delivered or performed and/or any required contractual milestones have been achieved, in each case to the satisfaction of the Town. Sprint Nextel will not pay any invoices that are not accompanied by the Town’s certification or do not otherwise comply with the other applicable payment terms and conditions. For additional information, review the TA Reconfiguration Handbook and the Sprint Nextel Vendor Information Package at Exhibit A.

3. Offeror's Duty to Understand the Town's Requirements

Each offeror should thoroughly examine the statement of work attached hereto as Exhibit B ("SOW") and become fully acquainted with the Town's requirements and the scope of the reconfiguration services to be performed. Offerors have a duty to request any information from the Town that they deem necessary to prepare their proposals. Such requests must be made in compliance with Part B, Paragraph 4 of this RFP. No claim for additional compensation will be allowed if based upon information that the offeror knew or should have known as part of the offeror's duty to become acquainted with the Town's circumstances and requirements.

4. Questions

Any prospective offeror desiring an interpretation of this RFP must submit a written request to the Purchasing Agent as described on the Schedule/Instructions to Offerors page. Only written responses (may be mailed, faxed or e-mailed) posted to the Town's web site will be considered official and binding. The Purchasing Agent will not provide verbal responses, and in any event, no verbal response to questions can be considered official or binding. All addenda will be issued by the Town and posted on the Town's web site. All such addenda shall become a part of the solicitation documents, must be addressed in the proposal and shall become a Contract Document. The Town accepts no liability for late nor non-receipt of addenda.

5. Complaints

Offerors are expected to raise any questions, exceptions, or additions they have concerning the RFP requirements early in the RFP process. If an offeror believes that the RFP unduly constrains competition or contains inadequate or improper criteria, the offeror must submit a specific complaint, in writing, in before the proposal due date. The solicitation process may continue. Should an offeror complaint identify a change that would be in the best interest of the Town to make, the Town may modify this RFP accordingly. The Town's decision on any complaint will be final; no further administrative appeal is available. Complaints will not be handled through the protest procedures outlined in Exhibit D.

6. Modification of Proposals

Offerors are liable for all errors or omissions contained in their proposals. Modifications of proposals already received will be considered only if the modifications are received prior to the due date for receipt of proposals. All modifications must be made in writing, executed and submitted in the same form and manner as the original proposal.

7. Withdrawal of Proposals

Offerors may withdraw a proposal that has been submitted at any time up to the proposal due date and time specified on the RFP Schedule page. To accomplish withdrawal, a written request signed by an authorized representative of the offeror must be submitted to the Town. After withdrawing a previously submitted proposal, the offeror may submit another proposal at any time up to the proposal due date and time.

8. Cost of Proposal Preparation

Each offeror is solely responsible for the cost incurred in the preparation of its proposal in response to this RFP. Such costs are not reimbursable.

9. Rejection of Proposals

Any proposals that do not conform to the essential requirements of this RFP may be rejected. The Town reserves the right to waive informalities and minor irregularities in submittals and determine what constitutes informalities and minor irregularities. The Town also reserves the right to reject the proposal of any offeror who has previously failed to perform adequately after having once been awarded a prior contract by the Town.

10. Proposal Format

All proposals must be clearly marked “Proposals for Reconfiguration of *Town of Blacksburg Police Department Radio System*.” All proposals must be submitted in two separate sealed packages. All pricing information must be in one package clearly marked “Pricing Information,” and all other responses to this RFP must be in a separate package clearly marked “Technical Proposal.” A “soft copy” of the Cost Proposal also must be submitted utilizing Microsoft Word for data and Microsoft Excel for spreadsheets.

Validity Date Each proposal must state that it remains valid for a period of 120 days from the date of submission.¹

11. General Proposal Instructions

Each offeror's response to this RFP should reflect in detail the method, process and/or other aspects or elements proposed for performance of the reconfiguration services specified in the SOW. The degree of such detail and the depth of the offeror's proposal will be important factors affecting the Town's judgment as to the offeror's comprehension of the services to be performed. However, only relevant material should be included in the proposal. Offerors are cautioned to answer completely each element and item of information requested and explain and justify any omissions. Proposals that are inadequate and incomplete will be considered non-responsive.

12. Executive Summary

Offerors must submit an Executive Summary prepared on the offeror's official business letterhead and signed by an official authorized to contractually bind the offeror. The Executive Summary must be included at the front of the Technical Proposal and must include the following information:

- (i) The name, legal status (e.g., corporation, sole proprietor, etc.), Federal Tax I.D. number, address, telephone number, facsimile, and email address of the legal entity or individual with whom the Town may execute a contract arising from this RFP.
- (ii) Contact representative's name and contact information.
- (iii) An organizational chart and a listing of key offeror personnel who have signature authority to bind their organization to a contract.
- (iv) A brief description of the company, including the offeror organization's experience and history with engineering services similar to those being procured under this RFP. Be specific and identify projects, dates, and results.
- (v) A detailed list of all materials and enclosures included in the offeror's proposal.

¹ The proposal validity date must be long enough to allow the Town to evaluate the proposal, conduct negotiations if any, select the successful offeror and then negotiate and execute a Frequency Reconfiguration Agreement with Sprint Nextel.

- (vi) Identify the page numbers of the Proposal that are marked with a “Proprietary or Confidential” legend in accordance with Part B, Paragraph 23.
- (vii) A statement substantiating that the person who signs the Executive Summary is authorized to contractually bind the offeror’s organization.
- (viii) The offeror’s agreement that its proposal, as submitted, will remain in full force and effect for [120] days.
- (ix) A statement that the submission of the offeror’s proposal constitutes an acceptance of the evaluation criteria and an agreement to abide by the procedures and all other administrative requirements described in this RFP.

13. Technical Proposal Requirements

The offeror’s technical proposal should be specific, detailed and complete so as to clearly and fully demonstrate that the offeror has a thorough understanding of the requirements of the SOW. Statements paraphrasing the SOW are considered inadequate, as are phrases such as “standard procedures will be employed,” “well known techniques will be used” or “the offeror concurs.” The technical proposal must consist of the following sections:

- (i) Section 1 must describe the technical approach that the offeror will use for this effort and demonstrate that the offeror currently has the capabilities, qualifications and experience to perform the requested services. Information provided must include, but not be limited to, the number of personnel to be used by the offeror and the qualifications and experience of such personnel.
- (ii) Section 2 must describe the offeror’s project management plan. Information provided must include, but not be limited to, proposed scope, tasks, schedule and milestones, allocation of resources, team organization and responsibilities. The management plan must address project risks and proposed mitigation strategies.
- (iii) Section 3 must describe the offeror’s past experience in performing services and projects similar to those required by the SOW. The offeror must identify three references, for which the offeror has performed services similar to those required by the SOW, and provide the name of a contact person for each reference together with his or her phone number and address. The offeror must be Kenwood certified.

14. Cost Proposal Requirements

The offeror's cost proposal must contain the proposed cost to the Town for performing the work described in the SOW as proposed in the offeror's technical proposal. Each offeror must submit sufficient pricing data to establish that the offeror realistically and completely understands the requirements of this solicitation and the SOW. The cost proposal must consist of the following sections:

- (i) Section 1 must describe how the proposed costs were generated. This section must include (i) the assumptions used in estimating and (ii) a summary of the offeror’s standard estimating methods covering labor, materials, other direct costs and indirect cost (and must identify any deviations from these methods in preparing the proposal).
- (ii) Section 2 must clearly and concisely list and explain all terms and conditions of the

offeror's proposal. The offeror must clearly state its acceptance of the form of the Rebidding Agreement attached hereto as Exhibit C. Any exceptions taken to the terms and conditions of the form of agreement must also be noted in this section, along with the reasoning for each exception.

- (iii) Section 3 must set forth separate cost summaries for each separate task required by the SOW, along with a total cost summary. The offeror must provide a breakout of the total proposed hours by each labor category required to perform the SOW and allocate the proposed labor hours across the period of performance on a monthly basis.
- (iv) Section 4 must set forth a proposed schedule showing all major project milestones and describe project risks and the offeror's proposed mitigation strategies.
- (v) Section 5 must explain the basis for the proposed labor hours for each labor category required to perform each separate task required by the SOW. For each task, the offeror must provide a task description describing the work to be performed, the specific rationale or methodology used to estimate the cost of the effort and data substantiating the reasonableness of the estimate.
- (vi) Section 6 must contain the following certification executed by an authorized representative of the offeror: "The offeror certifies that the labor rates being proposed are not greater than the lowest rates charged by the offeror to buyers of a class similar to the Town purchasing in quantities and under circumstances comparable to those specified in this RFP."
- (vii) Section 7 must set forth detailed substantiation, in contractor format, for any other direct costs being charged to the Town, including, without limitation, any **travel expenses** and material costs.

15. Number of Copies of Proposals

Each offeror shall submit six (6) copies of its Technical Proposal and six (6) copies of its Pricing Proposal.

16. Basis of Award

The Town will award a contract to the responsible offeror whose proposal conforming to this RFP is deemed, in the discretion of the Town, to represent the best value to the Town considering technical approach, management plan, past performance, cost and other factors. Although the Town must certify to the TA that the reconfiguration funding requested is the minimum necessary to provide comparable facilities to those presently in use, the Town reserves the right to accept other than the lowest cost proposal. The Town also reserves the right to reject all submissions or to terminate, restructure or amend this procurement at any time.

In determining whether an offeror is "responsible," the Town will consider whether the offeror (i) has adequate financial resources to perform the contract (or the ability to obtain them), (ii) will be able to comply with the required performance schedule, (iii) has a satisfactory performance record and a satisfactory record of integrity and business ethics, (iv) has the necessary organization, experience and technical skills (or the ability to obtain them), and (v) is otherwise qualified and eligible to receive an award under applicable laws and regulations.

17. Technical Evaluation

The Town will evaluate the entire proposal to ensure that it is responsive to the requirements of this RFP. Each responsive proposal will be subjected to a technical evaluation as set forth herein. The technical evaluation

factors listed below are all **equally important** and when combined are of **equal** importance to cost.

- (i) Technical Approach. The Town will evaluate the offeror's technical approach. The Town will evaluate the degree to which the offeror's proposed technical approach addresses each of the tasks identified in the SOW. The Town will evaluate the offeror's ability to perform all required work in a timeframe to meet or exceed the Town's operational requirements.
- (ii) Management Plan. The Town will evaluate the offeror's management plan. The Town will evaluate the offeror's proposed approach to managing the project, including proposed scope, tasks, schedule and milestones, allocation of resources, team organization and responsibilities. The Town will evaluate the validity of the offeror's perceived risks and proposed mitigation strategies
- (iii) Past Performance. The Town will evaluate the offeror's prior experience performing services and projects similar to those required by the SOW.

18. Cost Evaluation

The proposal of each offeror determined to be technically acceptable or which could, after discussion, be made technically acceptable, will be subject to a cost evaluation. The cost proposal will be evaluated on overall cost reasonableness and realism. Cost reasonableness and realism pertains to the offeror's ability to project costs which are reasonable and which indicate the offeror's understanding of the nature and the scope of the work to be performed. The Town considers that a fully justified and realistic proposal is of paramount importance in evaluating cost proposals. Any proposal lacking these attributes, regardless of its relative position in comparison to other proposals, will be considered lacking realism and may result in a higher evaluated cost.

19. Communications with Offerors

The Town intends to evaluate proposals and award a contract, either on initial proposals without communications, or on initial or subsequent proposals with communications. In evaluating the proposals, the Town may conduct written or oral communications with any and/or all offerors, and may down-select the firms participating in the competition to only those offerors most likely to receive award. Each proposal submitted in response to this RFP should contain the offeror's best terms from a cost and technical standpoint.

In those cases where it is unclear to what extent a requirement or price has been addressed in a proposal, the Town may, at its discretion, contact an offeror to clarify specific points in its proposal without conducting written or oral communications with other offerors. Representations made by the offeror in any clarification or communication shall be considered binding.

20. Award

A written notice of award mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer will result in a binding contract without further action by either party. Before the offer's specified expiration time, the Town may accept an offer, whether or not there are communications after its receipt, unless a written notice of withdrawal is received before award. Communications conducted after receipt of an offer do not constitute a rejection or counteroffer by the Town. The successful offeror will be expected to execute a contract within ten (10) business days of its receipt of the notice of award. The Town will provide the successful offeror the notice of award promptly after the Town and Sprint Nextel have executed the Frequency Reconfiguration Agreement approving the successful offeror's proposed price and scope of work. If the selected offeror fails to sign a contract within such time frame or such longer period as the Town may permit, the Town may elect to cancel the award and award the contract to the next highest ranked offeror or

cancel or reissue this RFP.

21. Form of Contract

To be responsive to this RFP, offerors must indicate a willingness to enter into a contract substantially in the form of the Rebidding Agreement attached hereto as Exhibit C. Under no circumstances is an offeror to submit its own standard contract terms and conditions as a response to this RFP. Any specific areas of dispute with any terms and conditions contained in the form of the Rebidding Agreement attached hereto as Exhibit C must be identified in the offeror's proposal and may, at the sole discretion of the Town, be grounds for disqualification from further consideration in the award of a contract. While the Town expects the final contract signed by the successful offeror to be substantially in the form of the Rebidding Agreement attached hereto as Exhibit C, the foregoing should not be interpreted to prohibit either the Town or the successful offeror from proposing additional contract terms and conditions during negotiation of the final contract.

22. Use of Subcontractors

The Town will accept proposals that include third party involvement only if the offeror submitting the proposal agrees to take complete responsibility for all actions of such subcontractors. The Town reserves the right to approve or reject any and all subcontractors that an offeror proposes. Any subcontractors engaged under the resulting contract must be pre-approved, in writing, by the Town.

23. Restriction on Use of Proposal Information

Offerors are advised that Section 2.2-4342 of the Code of Virginia, i.e., the Virginia Public Procurement Act, shall govern public inspection of all records submitted by the Offeror. Specifically, if Offeror seeks to protect any proprietary data or materials, pursuant to Section 2.2-4342, Offeror shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is needed. Furthermore, the Offeror shall submit proprietary information under separate cover, and the Owner reserves the right to submit such information to the Town Attorney for concurrence of the Offeror's claim that it is in fact proprietary. References may be made within the body of the proposal to proprietary information; however, all information contained within the body of the proposal not labeled proprietary or otherwise not meeting all three of the requirements of Section 2.2-4342 shall be public information in accordance with State statutes. Unless otherwise required by law, the Town will not use any information that has been properly marked with a "Proprietary or Confidential" legend for any purpose other than to evaluate the proposal and will not disclose such information to any third party except to (i) Town employees and advisors who have a need to know the information in connection with the evaluation and have agreed to maintain the confidentiality of the information, (ii) the Transition Administrator appointed by the FCC to administer the required 800 MHz reconfiguration and (iii) Sprint Nextel. :

24. Security

Because of the sensitive nature of the System being reconfigured, all information, materials or other documents submitted by the Town to any offeror must be treated by the offerors as confidential information and may not be released or made otherwise available to any person or entity, except the offeror's representatives and prospective subcontractors, without the Town's prior written consent.

25. Certificate of Independent Pricing

Each offeror, by submitting a proposal in response to this RFP, certifies as follows: "The prices in the offeror's proposal have been arrived at independently, without, for the purpose of restricting competition, any

consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered. The prices in the offeror's proposal have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before contract award unless otherwise required by law. No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition. However, the offeror may freely join with other persons or organizations for the purpose of presenting a single proposal."

26. Conflicts of Interest

Each offeror, by submitting a proposal in response to this RFP, certifies as follows: "In preparing this proposal, the offeror has not been assisted by any current or former employee of the Town whose duties relate (or did relate) to the RFP or prospective contract and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this proposal."

27. Gratuities

The Town prohibits its employees from using their official position for personal financial gain and from accepting any personal advantage from anyone under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their official duties. The offeror, by submitting a proposal in response to this RFP, represents that neither it nor its employees have extended any gratuity or special favor to employees of the Town under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties.

28. No Cost or Charges

No costs or charges under the proposed contract may be incurred by the offeror before the contract is fully executed.

29. Non-Endorsement and Publicity

In selecting an offeror to perform the work contemplated by the SOW, the Town is neither endorsing the offeror or its products or services nor suggesting that they are the best or only solution to the Town's needs. By submitting a proposal, the offeror agrees to make no reference to the Town in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the Town's prior review and express written consent.

30. Protest Procedures

Further information regarding the grounds for, filing and resolution of protests is contained in Exhibit D.

**Request for Proposals
Reconfiguration of 800 MHz Public Safety System**

Exhibit A

Sprint Nextel Vendor Information Package

See www.800TA.org for information regarding Sprint Nextel and the reconfiguration handbook.

**Request for Proposals
Reconfiguration of 800 MHz Public Safety System**

Town of Blacksburg, Virginia

Exhibit B

Statement of Work

A. Objectives and Scope

The Town needs to reconfigure its public safety system, which currently is operating on frequencies listed on Schedule A (“Existing Frequencies”), to operate on the frequencies listed on Schedule B (“Replacement Frequencies”). The contractor shall perform all services required to reconfigure the Town’s radios and system infrastructure to operate on the Replacement Frequencies in accordance with the schedule set forth herein.

The radio system consists of approximately 125 Kenwood TK-480 portable and 100 Kenwood TK-980 mobile radios of various models. The precise quantity and model information is unknown. The system vendor is Durham Communications, Inc. supplied by Professional Communications, Inc.

A listing of the Town’s equipment is as follows:

- Up to 125 Kenwood TK-480 Portable Radios
- Up to 100 Kenwood TK-980 Mobile Radios
- 3 Orbacom CRT Based Consoles (a single Central Processor Package)
- 2 on-site Tait Repeaters and associated combiners
- 2 off-site Tait Repeaters and associated combiners
- 2 off-site Remote Receivers (Tait)
- 2 on-site Control Stations
- ** All radios contain NPSPAC National Call and Mutual Aid Frequencies in addition to two primary frequencies and talk-around channels.

FCC Licensee Data

- Licensee Entity Name - Blacksburg, Town of
- Licensee Call Sign - WPQH221
- Licensee Radio Service Code - GF
- Licensee Contact Name - Lt. Bruce Bradbery

B. Defined Terms

Retune: Updating the channel frequencies via vendor standard Customer Programming Software/Radio Service Software programming software. No hardware changes are required.

Reprogram: Updating operating software/firmware via vendor provided update with new frequencies & band plan. One or more boards may need to be replaced in the equipment to enable reprogramming.

Retune Mask: A template that defines the talk-groups, fail-soft channels and other operating parameters that can be programmed into a radio as part of retuning the radio. A retune mask is typically developed for each group of users on a trunked system.

C. Tasks to be Performed

Location of Radios: On site.

Vendor Labor Table

| Retune Portables and Mobiles/Tasks | Labor Hours | Labor Rate | Travel Expenses | Cost (Hrs x Rate + Expenses) | Labor Name |
|--|-------------|------------|-----------------|------------------------------|------------|
| Retune – Portables 125 each, Kenwood Model TK-480 | | | | | |
| Retune – Mobiles 100 Each, Kenwood Model TK-490 | | | | | |

1. Reprogram the portable and mobile radios listed below to operate on the following channels:

| <u>Manufacturer</u> | <u>Model</u> | <u>Current Version of Software</u> | <u>Required Version of Software</u> | <u>Quantity</u> |
|---------------------|--------------|------------------------------------|-------------------------------------|-----------------|
| Kenwood Portable | TK-480 | | | 125 |
| Kenwood Mobile | TK-490 | | | 100 |
| | | | | |
| | | | | |

Location of Radios: On Site

Vendor Labor Table

| Reprogram Portables and Mobiles/Tasks | Labor Hours | Labor Rate | Travel Expenses | Cost (Hrs x Rate + Expenses) | Labor Name |
|---|-------------|------------|-----------------|------------------------------|------------|
| Reprogram – portables, Kenwood Model TK-480, 125 Each | | | | | |
| Reprogram – Mobiles, Kenwood Model TK-490 100 Each | | | | | |

Retune Masks: Develop program masks

Vendor Labor Table

| Replace Portables and Mobiles/Tasks | Labor Hours | Labor Rate | Travel Expenses | Cost (Hrs x Rate + Expenses) | Labor Name |
|-------------------------------------|-------------|------------|-----------------|------------------------------|------------|
| | | | | | |
| | | | | | |
| Develop Masks – Portables, 125 Each | | | | | |
| Develop Masks – Mobiles, 100 Each | | | | | |

| | | | | | |
|----------------------------------|--|--|--|--|--|
| Install Mobiles, 100 Each | | | | | |
|----------------------------------|--|--|--|--|--|

System Infrastructure

Reconfigure site equipment listed below to operate on the following channels:

Include a table showing current and new channel assignments for each site, and identify whether the channels are control, home, voice, fail-soft or data.

Vendor Labor Table

| Reconfigure Site Equipment | Labor Hours | Labor Rate | Travel Expenses | Equipment Cost | Cost (Hrs x Rate + Expenses) | Labor Name |
|---|--------------------|-------------------|------------------------|-----------------------|-------------------------------------|-------------------|
| 3 Each, Orbacom CRT Based Consoles (a single Central Processor Package) | | | | | | |
| 2 Each, on-site Tait Repeaters and associated combiners | | | | | | |
| 2 Each, off-site Tait Repeaters and associated combiners | | | | | | |
| 2 Each, off-site Remote Receivers (Tait) | | | | | | |
| 2 Each, on-site Control Stations | | | | | | |

Notes:

- A. Determine and state in your proposal those items of equipment that do not need to be retuned, reprogrammed or replaced.
- B. Provide pricing to retune, reprogram or replace the equipment located at each of the sites listed above to change channels.
- C. Evaluate and clearly describe in your proposal any site or system outages, including outage duration, required in performance of this reconfiguration work. Include tasks required to mitigate those outages, if any. Include associated costs for each task.
- D. Discuss in your proposal the level of risk of unplanned site or system outages while performing this reconfiguration work, and describe steps you will take to mitigate that risk and insure the system will function during the reconfiguration work.

Interoperability and Seamless Operation

Vendor Labor Table

| Interoperability Tasks | Labor Hours | Labor Rate | Travel Expenses | Equipment Cost | Cost (Hrs x Rate + Expenses) | Labor Name |
|------------------------|-------------|------------|-----------------|----------------|------------------------------|------------|
| Add as required | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

Project Management

2. Describe the project management team and liaison with the Town.

Vendor Labor Table

| Project Management/Tasks | Labor Hours | Labor Rate | Travel Expenses | Cost (Hrs x Rate + Expenses) | Labor Name |
|--------------------------|-------------|------------|-----------------|------------------------------|------------|
| Add as required | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Acceptance Testing

3. Perform acceptance testing in accordance with the Acceptance Test Plan attached hereto as Appendix 1.

Vendor Labor Table

| Acceptance Test/Tasks | Labor Hours | Labor Rate | Travel Expenses | Cost (Hrs x Rate + Expenses) | Labor Name |
|-----------------------|-------------|------------|-----------------|------------------------------|------------|
| Add as required | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

D. Performance Schedule

Describe the period of performance for each task required in order to complete the work by the deadline established by the Transition Administrator.

| | Period of Performance | | |
|-----|-----------------------|--------------|-----------------|
| | <u>Task No.</u> | <u>Start</u> | <u>Complete</u> |
| 1. | _____ | _____ | _____ |
| 2. | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ |
| 4.1 | _____ | _____ | _____ |
| 4.n | _____ | _____ | _____ |

Schedule A to Statement of Work

Existing Frequencies

- Current FB2 866.1500 --
- Current FB2 866.4000 --
- Current FB2 866.1500 --
- Current FB2 866.4000 --
- Current FX1 821.1500 --
- Current FX1 821.4000 --
- Current MO 821.0125 --
- Current MO 821.1500 --
- Current MO 821.4000 --
- Current MO 821.5125 --
- Current MO 822.0125 --
- Current MO 822.5125 --
- Current MO 823.0125 --
- Current MO 866.0125 --
- Current MO 866.1500 --
- Current MO 866.4000 --
- Current MO 867.0125 --
- Current MO 867.5125 --
- Current MO 868.0125 --

Schedule B to Statement of Work

Replacement Frequencies

Proposed 851.1500

Proposed 851.4000

Proposed 851.1500

Proposed 851.4000

Proposed 806.1500

Proposed 806.4000

Proposed 806.0125

Proposed 806.1500

Proposed 806.4000

Proposed 806.5125

Proposed 807.0125

Proposed 807.5125

Proposed 808.5125

Proposed 851.0125

Proposed 851.1500

Proposed 851.4000

Proposed 852.0125

Proposed 852.5125

Proposed 853.0125

Appendix 1 to Statement of Work

Acceptance Test Plan

Testing will be performed on each piece of equipment, radio, repeater, etc. over a two week period to ascertain correct reconfiguration, reliability and complete satisfactory performance. This testing will be performed by the successful vendor in the presence of the Town's Project Manager. System will not be accepted until the Town finds all equipment and materials to be functioning properly on the required frequencies.

**Request for Proposals
Reconfiguration of 800 MHz Public Safety System**

Exhibit C

Form of Rebanding Agreement

REBANDING AGREEMENT

THIS REBANDING AGREEMENT (this "Agreement") is made as of this ____ day of _____, 200_ (the "Effective Date"), by and between _____, a _____ corporation ("Vendor"), and **the Town of Blacksburg, Virginia, a municipal corporation** ("Town"). Vendor and Town may be referred to individually as a "party" and collectively as the "parties."

Recitals

A. Pursuant to certain orders (the "Orders") issued by the Federal Communications Commission ("FCC"), certain licensees of 800 MHz frequencies used in public safety systems must reconfigure their systems to operate on other licensed public safety frequencies, and Sprint Nextel Corporation ("Sprint Nextel") must provide the minimum funds necessary to provide each such licensee reconfigured facilities that are comparable to those presently in use.

B.. Pursuant to the Orders, Town and Sprint Nextel have entered into a Frequency Relocation Agreement dated _____, 200_, pursuant to which Town has agreed to relinquish certain 800 MHz frequencies and relocate its system to certain replacement frequencies (the "Replacement Frequencies") and Sprint Nextel has agreed to pay the cost of such relocation.

C. Town has selected Vendor as a provider of some or all of the products and services required to reconfigure Town's existing facilities to operate on the Replacement Frequencies.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Scope of Work. Vendor will perform the services described in the statement of work ("SOW") attached hereto as Exhibit A (the "Reconfiguration Services") in accordance with this Agreement. Vendor acknowledges that, although this Agreement is between Town and Vendor, that Vendor shall look exclusively to Sprint Nextel for payment of all sums due pursuant to this Agreement, as detailed below in paragraphs 3 and 5.

2. Performance Schedule. Vendor will perform the Reconfiguration Services in accordance with the schedule set forth in the SOW.

3. Contract Price As compensation for the Reconfiguration Services, Vendor shall be paid in accordance with Section 5 for the number of labor hours expended in the performance of the Reconfiguration Services at the fixed hourly rates specified in Exhibit B attached hereto, which rates include wages, indirect costs, general and administrative expense and profit. The fixed hourly rates in Exhibit B shall not be varied by virtue of Vendor's having performed Reconfiguration Services on an overtime basis. Invoices shall be submitted monthly, specify the invoice period of performance and cite, as appropriate, the number of man-hours expended during the invoice period, the cumulative man-hours expended to date, the applicable hourly rate, total amount invoiced, and the cumulative amount invoiced to date. Each invoice shall be accompanied by individual daily timecards or other evidence approved by Town substantiating the labor hours invoiced. It is estimated that the total cost for the performance of the Reconfiguration Services will not exceed the ceiling price set forth on the Exhibit B, and Vendor agrees to use its best efforts to perform the Reconfiguration Services within that ceiling price. Sprint Nextel shall not be obligated to pay Vendor any amount in excess of the ceiling price set forth in Exhibit B unless and until Town shall have notified Vendor in writing that Sprint Nextel has agreed to increase the ceiling price and shall have modified this Agreement to specify a revised ceiling price. If at any time Vendor has reason to believe that the total price for performing the Reconfiguration Services will be greater than the ceiling price, Vendor shall immediately

notify Town in writing, giving a revised estimate of the total price for performing the Reconfiguration Services with supporting reasons and documentation, so that the ceiling price can, if warranted, be increased in time to avoid any delay in the performance of Reconfiguration Services.

4. Taxes. The contract price for Reconfiguration Services includes the amount of all sales, use, excise, or similar taxes required to be paid in connection with the performance of the Reconfiguration Services. Vendor is responsible to pay for federal, state, and local taxes based on its income or net worth.

5. Invoicing and Payment.

5.1. Payment Terms and Conditions. Vendor understands that to receive payment from Sprint Nextel for the Reconfiguration Services to be provided under this Agreement, Vendor must comply with certain terms and conditions imposed by Sprint Nextel, the FCC and the transition administrator appointed pursuant to the Orders (the "Transition Administrator"). Vendor must complete a Payee Setup Form, which will be provided to Vendor by Sprint Nextel, to provide Sprint Nextel with the information necessary to enter Vendor's payment information into Sprint Nextel's payment system. In order to avoid any payment delays, Vendor should submit its completed Payee Setup Form to Sprint Nextel within 10 days of commencing the Reconfiguration Services. Vendor's completed Payee Setup Form should be faxed to Sprint Nextel at 866.221.6990. DO NOT send the Payee Setup Form to Sprint Nextel by mail. Vendors should allow ten (10) days after submitting its completed Payee Setup Form before beginning to submit invoices.

5.2. Invoicing. Vendor must fax its invoices to Sprint Nextel at **866.221.6990**. DO NOT send invoices to Sprint Nextel by mail. Before an invoice will be paid, Sprint Nextel requires a confirmation from Town (in the form of an "Incumbent Acknowledgement") that Vendor has delivered and/or performed the goods and/or services listed on the invoice and/or has achieved any required contractual milestones covered by the invoice. At the same time Vendor faxes an invoice to Sprint Nextel, Vendor also must submit a copy of the invoice to Lt. Bruce Bradbury of the Blacksburg Police Department so that Town will be able to review any invoiced goods and/or services in order to confirm their delivery and/or performance and any invoiced milestones in order to confirm their achievement and provide the required Incumbent Acknowledgement. If Town determines that any invoiced goods and/or services have not been delivered and/or performed or that any invoiced milestones have not been achieved as required by this Agreement, Town will promptly notify Vendor in writing of the reasons for that determination.

5.3. Invoices. In order to be paid, invoices must include the following information:

- 5.3.1. Vendor's name (must match the name submitted on the Payee Setup Form submitted by Vendor to Sprint Nextel)
- 5.3.2. Vendor's "remit to" address
- 5.3.3. Vendor's representative's name and contact information (for questions about the invoice)
- 5.3.4. Town's name
- 5.3.5. Deal Number (to be provided by Sprint Nextel)
- 5.3.6. A detailed list of goods and/or services or milestones for which Vendor is requesting payment (broken out by line item) as well as the total sum
- 5.3.7. Applicable sales tax
- 5.3.8. Invoice date
- 5.3.9. Invoice number

5.4. Payment. Within thirty (30) days after the later of Sprint Nextel's receipt of (i) Vendor's invoice and (ii) the related Incumbent Acknowledgement, Sprint Nextel will pay the invoice on behalf of Town, assuming that Vendor has complied with all applicable terms and conditions of payment imposed by Sprint Nextel, the FCC and the Transition Administrator. Vendor agrees to accept direct payment from Sprint Nextel on behalf of Town.

5.5. Sprint Nextel Letter of Credit. Sprint Nextel has obtained an irrevocable letter of credit that assures that funds will be available to fund the 800 MHz band reconfiguration required by the Orders (the "Letter of Credit"). The Transition Administrator may issue draw certificates to the trustee administering the Letter of Credit (the "Trustee") for payment of relocation costs if Sprint Nextel defaults on its obligation under the Orders to pay a licensee's reconfiguration costs. Vendor agrees to look solely to the Letter of Credit as security for payment of any

amounts not paid by Sprint Nextel when due under this Agreement and hereby waives its rights of lien, and agrees not to file any liens, arising out of the performance of the Reconfiguration Services against Town's premises or any property belonging to Town. Nothing contained in this section shall be deemed to limit any other remedies available to Vendor at law or equity.

6. Change Orders. Town reserves the right at any time to make changes in the SOW or in the time or place of performance of the Reconfiguration Services. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Agreement, whether or not changed by the order, the Town Contracting Officer shall make an equitable adjustment in the contract price, the performance schedule, or both. Any such adjustment in the contract price or performance schedule shall be mutually satisfactory to Town, Vendor, Sprint Nextel and the Transition Administrator. Any claim by Vendor for an adjustment shall be deemed waived unless written notice of a claim is submitted to the Town Contracting Officer within thirty (30) days following Vendor's receipt of notice of the change. Price increases and/or extensions of time shall not be binding upon Town unless evidenced by a modification to this Agreement signed by the parties hereto in accordance with Section 34.2. Town reserves the right to constitute a change order review board comprised of representatives of Town, Vendor, Sprint Nextel and the Transition Administrator in the event that the need arises to expedite review and approval of change orders in order to mitigate the impact of changes on the performance of the Reconfiguration Services.

7. Administration.

7.1. Vendor Project Manager. Vendor shall appoint a project manager (the "Vendor Project Manager") who will provide oversight of Vendor activities conducted hereunder, who will be the principal point of contact person concerning Vendor's performance under this Agreement, and with whom the Town's Project Manager shall work for the duration of this Agreement. Vendor shall notify Town's Project Manager, in writing, when there is a new Vendor Project Manager assigned to this Agreement. The Vendor Project Manager's information is:

Vendor Project Manager:

Address:

Phone:

Fax:

E-mail:

7.2. Vendor Contracting Officer. For the purposes of this Agreement, "Vendor Contracting Officer" means **<Title >**, or the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Agreement, an authorized representative of Vendor Contracting Officer acting within the limits of his/her authority.

7.3. Town Project Manager. Town shall appoint a project manager (the "Town Project Manager") who will provide oversight of the activities conducted hereunder and will be the primary contact person with whom Vendor's Project Manager shall work for the duration of this Agreement. Town shall notify Vendor's Project Manager, in writing, when there is a new Town Project Manager assigned to this Agreement. The Town Project Manager's information is:

Town Project Manager: Lt. Bruce E. Bradbery

Address: 200 Clay Street

Phone: 540-961-1810

Fax: 540-552-8456

E-

mail:bbradbery@blacksburg.go

v

7.4. Town Contract Administrator. For the purposes of this Agreement, "Town Contract Administrator" shall mean that person designated by the Town Contracting Officer to administer this Agreement on behalf of Town.

7.5. Town Contracting Officer. For the purposes of this Agreement, "Town Contracting Officer" shall mean Marc C. Verniel, Town Manager,, or the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Agreement, an authorized representative of the Town Contracting Officer acting within the limits of his/her authority.

8. Subcontractors. Vendor may not, without the prior written consent of the Town Contracting Officer, enter into subcontracts with third parties for performance of any part of Vendor's duties and obligations hereunder. In no event shall the existence of a subcontract operate to release or reduce the liability of Vendor to Town for any breach in the performance of Vendor's duties. Vendor shall be liable for any loss or damage to Town, including but not limited to personal injury, physical loss, harassment of Town employees, or violations of the Infringement and Confidentiality sections of this Agreement occasioned by the acts or omissions of Vendor's subcontractors, their agents or employees. Section 27 (Publicity) shall apply to all subcontractors.

9. Performance Bonds. Will not be required.

10. Force Majeure. Neither party will be liable for its non-performance or delayed performance if caused by an event, circumstance, or act of a third party that is beyond such party's reasonable control, including, without limitation, an act of God, a government entity acting in its sovereign capacity, or the other party (including the other party's failure to comply with the Orders); strikes or other labor disturbances; general unavailability of necessary materials; hurricanes, earthquakes, fires, floods, or epidemics; or embargoes, war, and riots (a "Force Majeure"). Each party will notify the other party if such party becomes aware of a Force Majeure that will significantly delay performance. The notifying party will give the notice promptly after it discovers the Force Majeure.

11. Liquidated Damages.

11.1. General. Any delay by Vendor in meeting the specified performance dates set forth in this Agreement will interfere with the proper implementation of Town's programs and will result in loss and damage to Town. As it would be impracticable to fix the actual damage sustained in the event of any such failure(s) to perform, Town and Vendor agree that in the event of any such failure(s) to perform, the amount of damage which will be sustained will be the amount set forth in Section 11.2 and the parties agree that Vendor shall pay such amounts as liquidated damages and not as a penalty.

11.2. Specific. If Vendor does not perform any Reconfiguration Services by the due date specified in this Agreement, then Vendor shall provide a revised due date and pay to Town as fixed and agreed liquidated damages, in lieu of all other damages due to such delay, for each calendar day between the specified due date and the date that Vendor actually performs the Reconfiguration Services an amount of five hundred and no/100 dollars (\$500.00) per day. If the revised due date is more than thirty (30) calendar days from the original due date, then by written notice to Vendor, Town may immediately terminate the right of Vendor to provide the Reconfiguration Services, and Town may obtain substitute Reconfiguration Services from another vendor. In this event, Vendor shall be liable for fixed and agreed-upon liquidated damages, in lieu of all other damages due to such delay, in the amount specified above, until substitute Reconfiguration Services are provided, or a maximum of _____ () calendar days from the original performance due date, whichever occurs first.

12. Access to Work Sites. Town will provide access to the Town's sites as reasonably requested by Vendor so that it may perform its duties in accordance with the SOW. Vendor acknowledges that security rules and regulations will be in effect for the sites, as developed and promulgated by Town from time to time. Vendor agrees, for itself, its employees, subcontractors, vendors, visitors, and invitees, to comply strictly with all rules and regulations of Town in effect from time to time with regard to access to and activities on Town's sites.

13. Gratuities. Vendor and its employees shall not, with the intent to influence the recipients in the conduct of their official duties, extend any gratuity or special favor of monetary value to any officer, employee or other representative of Town.

14. Insurance. Vendor shall provide insurance coverage as specified in Exhibit C attached hereto and incorporated herein by reference including, without limitation, insurance coverage for its liability and indemnity obligations hereunder.

15. Liens. Vendor shall at all times promptly pay for all services, materials, equipment, and labor used or furnished by Vendor under this Agreement and shall, to the fullest extent allowed by law, at its expense, keep Town's premises and all property belonging to Town free and clear of any and all liens and rights of lien arising out of services, labor, equipment or materials furnished by Vendor or its employees, suppliers, vendors, or subcontractors under this Agreement. If Vendor fails to release and discharge any lien or threatened lien against

Town within five (5) working days after receipt of written notice from Town to remove such claim of lien, Town may, at its option, discharge or release the claim of lien or otherwise deal with the lien claimant, and Vendor shall pay Town any and all costs and expenses of Town in so doing, including reasonable attorneys' fees incurred by Town.

16. Risk of Loss. Title and risk of loss of any replacement equipment to be provided by Vendor as part of the Reconfiguration Services shall pass to Town upon delivery to Town. Town shall retain any replaced equipment for delivery to Sprint Nextel.

17. Acceptance. Final acceptance of the Reconfiguration Services shall occur upon satisfactory performance of the Reconfiguration Services in accordance with the SOW and successful completion of any acceptance testing provided in the SOW. Town and Vendor will memorialize final acceptance of the Reconfiguration Services by promptly executing a final acceptance certificate.

18. Warranties.

18.1. Reconfiguration Services. For _____ () days from the date of Town's final acceptance of the Reconfiguration Services, Vendor warrants that the Reconfiguration Services were performed in a good and workmanlike manner. To assert a warranty claim, Town must notify Vendor in writing of the claim before the expiration of the warranty period. Upon receipt of this notice, Vendor will (at no additional charge to Town) re-perform any Reconfiguration Services that were not properly performed in accordance with the foregoing warranty.

18.2. Replacement Equipment and Software. To the extent that the Reconfiguration Services involve delivery of replacement equipment or software, Vendor agrees to assign to Town any warranty on such replacement equipment or software provided by the manufacturer or developer thereof to Town.

18.3. Disclaimer of Other Warranties. THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR RECONFIGURATION SERVICES PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF, AND VENDOR DISCLAIMS, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

19. Default. If Vendor fails to perform a material obligation under this Agreement, Town may consider Vendor to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving Vendor written notice of default. Vendor will have thirty (30) days after receipt of the notice of default either to cure the default or, if the default is not curable within thirty (30) days, to provide a written cure plan. Vendor will begin implementing the cure plan immediately after receipt of notice by Town that it approves the plan. If Vendor fails to cure the default, unless otherwise agreed in writing, Town may terminate this Agreement for default. In the event of termination for default, Town may acquire the Reconfiguration Services elsewhere on terms and conditions or in such manner as Town may deem appropriate, and Vendor shall be liable to Town for any excess cost or other expense incurred by Town in such acquisition. The rights and remedies of Town under this section are in addition to other rights and remedies provided by law or this Agreement.

20. Termination for Convenience. When, at the sole discretion of Town, it is in the best interest of Town, the Town Contracting Officer may terminate this Agreement, in whole or in part, by ten (10) days' written notice to Vendor. If this Agreement is so terminated, Vendor shall only be entitled to receive payments required by the terms of this Agreement for Reconfiguration Services received and accepted by Town prior to the effective date of termination.

21. Termination for Conflict of Interest. Town may terminate this Agreement by written notice to Vendor if Town determines, after due notice and examination, that any party has violated any applicable law regarding ethics in public procurement in connection with the award or performance of this Agreement. In the event this Agreement is so terminated, Town shall be entitled to pursue the same remedies against Vendor as it could pursue in the event this Agreement were terminated for default pursuant to Section 19.

22. Indemnification. Vendor will defend at its expense and hold harmless Town against any claim suit, demand, or cause of action brought against Town that is based on or to the extent it is caused by (i) the negligence or willful misconduct of Vendor, its subcontractors, or their employees or agents, while performing their duties under this Agreement, and which results in personal injury, death, or direct damage to tangible property; or (ii) Vendor's, its subcontractors', or their employees' or agents' breach of the confidentiality restrictions contained in this Agreement ("Claim"). Vendor will indemnify Town from any liability, judgment, awards and damages resulting from a final award that arises from a Claim and pay all losses, expense or direct damages incurred by the indemnified

party associated with the Claim. Vendor's duties to defend and indemnify are conditioned upon: (i) Town's promptly notifying Vendor in writing of the Claim; (ii) Town's using its best efforts to encourage the Office of the Attorney General of the State of Virginia to grant Vendor sole control of the defense of the suit and all negotiations for its settlement or compromise; and (iii) Town's providing to Vendor cooperation and, if requested by Vendor, reasonable assistance in the defense of the Claim. Vendor will have no indemnity liability for the negligence or fault of Town. This section states the full extent of Vendor's general indemnification from liabilities that are in any way related to Vendor's performance under this Agreement.

23. Infringement. Vendor warrants that Reconfiguration Services performed for Town by Vendor do not infringe or violate any patent, copyright, trademark, mask work, trade secret, or any other intellectual property of a third party. Vendor shall indemnify, defend, settle on behalf of, and hold harmless Town from and against any and all demands, claims, proceedings, actions, losses, damages, liabilities, costs, and expenses (including reasonable attorneys' fees, other expenses for investigation, handling and litigation, and settlement or judgment amount) asserted against or incurred by Town, by reason of, resulting from, or arising in connection with any breach of the forgoing warranty (an "Infringement Claim"). Vendor's duties to defend and indemnify are conditioned upon: (i) Town's promptly notifying Vendor in writing of the Infringement Claim; (ii) Town's using its best efforts to encourage the Office of the Attorney General of the State of Virginia to grant Vendor sole control of the defense of the suit and all negotiations for its settlement or compromise; and (iii) Town's providing to Vendor cooperation and, if requested by Vendor, reasonable assistance in the defense of the Infringement Claim. This section states the entire liability and exclusive remedy of Town for Infringement Claims.

24. Limitation Of Liability. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, NEITHER PARTY (NOR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS AND REPRESENTATIVES) WILL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT OR THE PERFORMANCE OF SERVICES BY VENDOR PURSUANT TO THIS AGREEMENT.

25. Disputes. All claims which may arise under this contract shall be resolved through the procedure set forth in Blacksburg Town Code section 16-506 Contractual Disputes

26. Security. Because of the sensitive nature of the system being reconfigured, all information, materials or other documents submitted by Town to Vendor must be treated by Vendor as confidential information and may not be released or made otherwise available to any person or entity, except Vendor's representatives and subcontractors, without Town's prior written consent.

27. Publicity. The selection of Vendor to perform the Reconfiguration Services pursuant to this Agreement is not in any way an endorsement of Vendor or Vendor's Reconfiguration Services by Town and shall not be so construed by Vendor in any advertising or other publicity materials. Vendor agrees to submit to Town, all advertising, sales promotion, and other publicity materials relating to this Agreement and the Reconfiguration Services furnished by Vendor wherein Town's name is mentioned, language is used, or Internet links are provided from which the connection of Town's name therewith may, in Town's judgment, be inferred or implied. Vendor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of Town prior to such use.

28. Right of Inspection. Vendor shall provide right of access to its facilities to Town, or any of Town's officers, or to any other authorized agent or official of the Town, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

29. Licensing Standards. Vendor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements and standards necessary in the performance of this Agreement.

30. Covenant against Contingent Fees. Vendor warrants that no person or selling Agency has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or a bona fide established commercial or selling Agency of Vendor. In the event Vendor breaches this section, Town shall have the right to either annul this Agreement without liability to Town, or, in Town's discretion, deduct from payments due to Vendor, or otherwise recover from Vendor, the full amount of such commission, percentage, brokerage, or contingent fee.

31. Prohibited Agreements. Vendor has not entered, and agrees not to enter, into any agreement or arrangement with Town: (i) pursuant to which Vendor agrees, in exchange or as consideration for Town's selection of Vendor to perform the Reconfiguration Services, to pay or convey to Town or any third party a kickback or anything else of value or to provide to Town any services or equipment not required as part of or directly related to the Reconfiguration Services at non-commercial rates or at no charge; or (ii) which includes artificially inflated prices or, Vendor knows or has reason to know, is based upon a false statement of work, an inaccurate inventory count or an incorrect description of the Reconfiguration Services, including, but not limited to, the equipment or locations to be reconfigured.

32. Recordkeeping. Vendor shall retain, and make available to Town upon request, all documents directly related to Vendor's performance of the Reconfiguration Services for a period of five (5) years following completion of the Reconfiguration Services or for a longer period if Vendor, for its own purposes, retains such records for a longer period of time.

33. Additional Terms and Conditions. The additional terms and conditions set forth on Exhibit D are hereby incorporated by referenced with the same force and effect as if set forth herein. In the event of any inconsistency between the provisions set forth in this Agreement and those set forth on Exhibit D, the provisions set forth on Exhibit D shall govern.

34. General.

34.1. Assignment. Vendor shall not assign this Agreement or any of Vendor's rights hereunder, including, but not limited to, Vendor's right to receive any money due or to become due hereunder, without prior written consent of the Town Contracting Officer.

34.2. Authority for Modifications and Amendments. No modification, amendment, alteration, addition, or waiver of any section or condition of this Agreement or the SOW shall be effective or binding unless it is in writing and signed by Town and Vendor Contracting Officers. Only the Town Contracting Officer shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Contract or the SOW on behalf of Town.

34.3. Waiver. Failure or delay by either party to exercise any right or power under this Agreement will not operate as a waiver of the right or power. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

34.4. Severability. If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement.

34.5. Non-Exclusive Remedies. The remedies provided for in this Agreement shall not be exclusive but are in addition to all other remedies available under law.

34.6. Independent Contractors. Each party is an independent contractor with respect to the other party, and neither party nor its personnel will be considered to be employees or agents of the other party. Nothing in this Agreement grants a party the right or authority to make commitments of any kind for the other party. This Agreement will not constitute, create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind.

34.7. Headings and Section References. The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers.

34.8. Governing Law. This Agreement and the rights and duties of the parties will be governed by and interpreted in accordance with the laws of the State of Virginia, without regard to its conflicts of law principles. The jurisdiction for any action hereunder shall be exclusively in the Montgomery County Courts, state of Virginia. The venue of any action hereunder shall be in an appropriate state court of competent jurisdiction in Montgomery County, Virginia.

34.9. Entire Agreement. This Agreement, including all Exhibits, constitutes the entire agreement of the parties regarding the subject matter of this Agreement and supersedes all previous agreements, proposals, and

understandings, whether written or oral, relating to that subject matter. The preprinted terms and conditions found on any Vendor purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each party signs the document.

34.10. Notices. Notices required to be given by either party to the other party must be in writing and either delivered in person or sent to the address shown below by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt:

| Vendor | Town |
|-------------|-------------|
| Attn: _____ | Attn: _____ |
| _____ | _____ |
| _____ | _____ |
| fax: _____ | fax: _____ |

34.11. Compliance with Applicable Laws. Each party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System. Town will obtain and comply with all required FCC licenses and authorizations.

34.12. Authority to Execute Agreement. Each party represents to the other party that such party has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of such party.

34.13. Survival of Terms. The following provisions survive the expiration or termination of this Agreement for any reason: if any payment obligations exist, Sections 3 (Contract Price) and 5 (Invoicing and Payment); Section 22 (Indemnification); Section 23 (Infringement), Section 24 (Limitation of Liability); Section 25 (Disputes); Section 25 (Security); Section 27 (Publicity); Section 32 (Recordkeeping); and all of the General provisions in this Section 34.

The parties hereby enter into this Agreement as of the Effective Date.

| Vendor | Town |
|--------------|--------------|
| By: _____ | By: _____ |
| Name: _____ | Name: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

Exhibit A

Statement of Work

Exhibit B

Payment Terms

Fixed Hourly Rates and Ceiling Price

Exhibit C
Required Insurance

1. Whenever any work or services are provided, either in or on Town property the Offeror shall provide the Purchasing Agent with a Commonwealth of Virginia Certificate of Insurance prior to the commencement of any work under the contract and agrees to maintain such insurance until the completion of the contract. The minimum limits of liability shall be: Worker's Compensation – Standard Virginia Worker' Compensation Policy. Broad Form Comprehensive General Liability - \$2,000,000 Combined Single Limit. This coverage shall include a s appropriate as determined by Town, Premises/Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability, Owner's and Contractor's Protective Liability and Personal Injury Liability; Automotive Liability - \$1,000,000 Combined Single Limit. These are minimum requirements only and may be increased if stated in the proposal package. Contractor shall notify Town at least 30 days prior to cancellation or non-renewal of this insurance

Exhibit D
Additional Terms and Conditions

1. OWNERSHIP OF MATERIAL:

Ownership of all information, materials and documentation originated and prepared for the Town of Blacksburg in conjunction with this proposal shall belong exclusively to the Town.

2. LAWS AND REGULATIONS:

The Contractor shall give all notices and comply with all laws, ordinances, regulations, and lawful orders of any public authority bearing on the performance of the work.

The contract and all other contracts and subcontracts are subject to the provisions of Articles 3 and 5, Chapter 4, Title 40.1, Code of Virginia (1950), as amended, relating to labor unions and the “right to work”, and all Contractors and Subcontractors, whether residents or nonresidents of the Commonwealth, who perform any work related to this project shall comply with all of the said provisions.

The Contractor shall furnish the Town copies of affidavits upon request giving the original dates, renewal dates and expiration dates of all labor contracts related to any phase of the work to be performed on the project site under this contract, if applicable.

The provisions of all regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia, issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia (1950), as amended, shall apply to all work under this contract.

3. AUDIT:

The Contractor hereby agrees to retain all books, records, and other documents relative to this Contract for five (5) years after final payment, or until audited by the Town of Blacksburg, whichever is sooner. The Town, its authorized agents, and/or State auditors shall have full access to and the right to examine any of the said materials during said period.

4. SUBCONTRACTOR PAYMENT REQUIREMENT:

For any contract with a nongovernmental, privately owned enterprise, for goods or services, the contract shall include:

a payment clause which obligates the contractor to take one of the two following actions within seven days after receipt of amount paid to the contractor by the Town for work performed by the subcontractor under that contract:

Pay the subcontractor for the proportionate share of the total payment received from the Town attributable to the work performed by the subcontractor under that contract, or:

Notify the Town and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor’s payment with the reason for nonpayment.

A payment clause that requires (I) individual contractors to provide their social security numbers and (ii) proprietorships, partnerships, and corporations to provide their federal employer identification numbers.

An interest clause that obligates the contractor to pay interest to the subcontractor on all amounts owed by the contractor that remain unpaid after seven days following receipt by the contractor of payment from the Town for work performed by the subcontractor under that contract, except for amounts withheld as allowed above.

An interest rate clause stating, "Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month.

The contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

5. ANTI-TRUST:

By entering into a contract the Offeror conveys, sells, assigns, and transfers to the Town of Blacksburg all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Town of Blacksburg under the contract.

6. ETHICS IN PUBLIC CONTRACTING:

The provisions contained in Sections 2.2-4367 – 2.2-4377 of the Virginia Public Procurement Act as set forth in the Code of Virginia(1950), as amended, shall be applicable to all contracts solicited or entered into by the Town of Blacksburg. A copy of these provisions may be obtained from the Purchasing Office upon written request.

By submitting their proposals, all Offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction of any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

7. APPLICABLE LAWS AND COURTS:

Any Town contract shall be governed in all respects by the laws of the Commonwealth of Virginia, and any litigation with respect thereto shall be brought in the courts of Montgomery County. The Contractor shall be responsible for compliance with all the laws of the Commonwealth of Virginia, all ordinances and regulations of the Town of Blacksburg and such other standards, codes, and regulations having application to the goods or services provided.

8. INTELLECTUAL PROPERTY:

The Offeror agrees to assign to the Town all worldwide right, title and interest in and to all works, including literary works, pictorial, graphic and sculptural works, architectural works, works of visual art and any other work that may be the subject matter of copyright protection; advertising and marketing concepts; models; drawings; for the Town pursuant to this Contract

9. VALID CONTRACT:

In order for any contract document entered into with the Town of Blacksburg to be valid, it must be executed by an authorized person as defined in Chapter 2, Article V of the Code of the Town of Blacksburg, Virginia.

10. DEBARMENT STATUS:

By submitting a Proposal or by the acceptance of a Town of Blacksburg Purchase Order, all firms certify that they are not currently debarred from doing business with or in the Commonwealth of Virginia, nor are they an agent of any person or entity that is currently debarred from doing business with or in the Commonwealth of Virginia.

11. NONVISUAL ACCESS TO TECHNOLOGY:

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State Town or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this Agreement: (i) effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;

the Technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts; non visual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and the technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network Services used by persons who are not blind or visually impaired.

Compliance with the foregoing nonvisual access standards shall not be required if the head of the using Town, institution or political subdivision determines that (1) the Technology is not available with nonvisual access because the essential elements of the Technology are visual and (ii) nonvisual equivalence is not available.

12. DRUG FREE WORKPLACE:

During the performance of this contract, if the contract is over \$10,000 the contractor agrees to (I) provide a drug free workplace for the contractor's employees; post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug free workplace and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

13. ANTI-DISCRIMINATION: By submitting their (bids/proposals), (bidders/offerors) certify to the Town that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E). The Town does not discriminate against faith based organizations.

In every contract over \$10,000 the provisions in 1. and 2. below apply:

- . During the performance of this contract, the contractor agrees as follows:
In every contract over \$10,000 the provisions in 1. and 2. below apply:

- . During the performance of this contract, the contractor agrees as follows:

The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

14. COOPERATIVE PROCUREMENT: Other public bodies and agencies within the Commonwealth of Virginia may purchase from this solicitation if the successful offeror is in agreement.

15. STATE CORPORATION COMMISSION LICENSING: Corporations conducting business within the Commonwealth of Virginia must be incorporated in the Commonwealth of Virginia or present certification as issued by the VA State Corporation Commission.

**Request for Proposals
Reconfiguration of 800 MHz Public Safety System**

Exhibit E

Protest Procedures

1. Award/Protest of Award: Any offeror desiring to protest the award or decision to award this contract shall submit such protest in writing to the Purchasing Agent within ten days after public notice of award or the announcement of the decision to award, whichever occurs first. Public Notice of the award and/or decision to award shall be posted on the bulletin board in the Purchasing Office. The procedure for any protest is provided and shall be governed by Virginia Code §2.2-4360.